

# REVIEW:

## **An integrated liberalist framework for regional cooperation to fight sex trafficking in East Asia**

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### **Abstract**

East Asian nations share the commitment to eliminate sex trafficking in the region. However, sex trafficking continues to rise in East Asia and remains poorly understood in spite of the anti-sex trafficking measures already in place. Since sex trafficking is increasingly becoming a transnational problem that involves and affects numerous nations, it therefore requires transnational solutions that emphasize full cooperation, increased levels of coordination, and a universal agreement on the roles and responsibilities to protect, prevent and prosecute domestically and internationally. This issue and the need for further regional cooperation will be discussed under an integrated liberalist framework for regional cooperation that may help devise more effective policies in the fight against sex trafficking.

**Keywords:** East Asia, Integrated liberalist framework, Regional cooperation, Sex trafficking.

### **Introduction**

Sex trafficking has received an immense amount of attention over the last several decades. It is estimated to be the most common form of human trafficking (Bernat 2011: *i*) and has often been described along the lines of a grave human rights violation, one of the largest organized crimes in the world, a multi-billion dollar industry, and a form of modern day slavery (Krishnan 2009). Yet, despite the attention that sex trafficking has garnered, it continues to rise and remains poorly understood from a political perspective. Numerous anti-sex trafficking campaigns, initiatives, laws and protocols have been formulated and enacted at the national, regional and international level, but their effectiveness in combating commercial sexual exploitation is questionable. Globalization is leading to an exacerbation of the historical regional-specific factors that cause and sustain sex trafficking (Kara 2009: 25), as well as the growth of transnational criminal organizations and networks. Therefore, sex trafficking warrants increased governmental and non-governmental cooperation at the national, regional and global levels. But what are the challenges and obstacles in achieving greater cooperation? Why is more cooperation desirable? And what methodology can be made to improve cooperation on sex trafficking issues such as locating and rescuing victims, prosecuting the perpetrators, and preventing the process?

This paper aims to answer the above-mentioned questions by investigating and critically analyzing the latest trends and key issues of sex trafficking and cooperation to fight sex trafficking in East Asia. The paper firstly focuses on the lack of a clear, definitive definition of the term, followed by a presentation of the various theoretical perspectives that are often used to rationalize anti-sex trafficking measures. These theoretical viewpoints of sex trafficking countermeasures are combined together to create an integrated theoretical framework that incorporates elements of concepts from each perspective; they include the paradigms of migration, human rights, feminism, and economic cooperation. An integrated framework will be discussed to address the shortcomings that currently exist in efforts to protect victims, catch perpetrators,

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and prevent the growth of sex trafficking domestically and across national borders.

The paper will also explain the context of sex trafficking in East Asian countries with particular attention given to Japan and China in the form of national case studies. Areas of potential cooperation are discussed with an argument that contends since sex trafficking is increasingly becoming a transnational problem that involves and affects numerous nations, it requires transnational solutions that emphasize full cooperation, increased levels of coordination, and a universal agreement on the roles and responsibilities to protect, prevent and prosecute domestically and internationally. The paper also mentions possible solutions to increase cooperation and reduce the further rise of sex trafficking in the East Asian region, based on an understanding of the links between irregular migration and trafficking, formulating migration policies to reduce irregular migration, addressing the supply and demand aspect by exploring the possibility of legalizing sex industries and opening channels for sex workers to migrate legally, decriminalizing victims and working with NGOs and civil society on identification, rescue and reintegration efforts, and providing incentives to individuals for giving information and intelligence to law enforcement agencies and providing those individuals with other means of earning a living (Hugo 2005: 51).

Although no definitive definition of sex trafficking has been agreed upon universally (Segrave, Milivojevic, and Pickering 2009: 16-20), the Palermo Protocol has defined ‘human trafficking’ in the “*United Nations Protocol to Prevent, Suppress and Punish Trafficking*” supplement to the “*United Nations Convention against Transnational Organized Crime*”:

“...the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs” (United Nations 2000: 2).

Based on this definition, there are three components to human trafficking i.e. the activity, the means, and the purpose (Lee 2005: 167-168). Sex trafficking, as one category of human trafficking, refers specifically to the exploitative aspect of these components for the purpose of sexual exploitation. However, the issue of sex trafficking becomes contentious in cases of willing involvement of individuals in prostitution that do not fit into the coercive component of the definition. National legislations often regard sex work as illegal and thus consider the national and international movement of people for the purpose of sex work as sex trafficking regardless of whether that person was coerced or not (for example, see the United Kingdom’s Sexual Offences Act of 2003). This presents a serious problem and obstacle to addressing sex trafficking, and as Lee (2005) shows, heavily influences research on all forms of trafficking (including sex trafficking):

“The success in identifying indicators and measures of trafficking depends on the accurate conceptualization of the framework and definitions of trafficking. One of the factors hindering research and policy on trafficking has been the lack of definitions and clarity in distinguishing among different phenomena involving movement of people across borders” (Lee 2005: 190).

There is a difference in the conceptualization of the term between international and national levels; the majority of sex trafficking occurs at the international level, while migration policy, law enforcement, and other policy decisions are still made at the national level and within the boundaries of nation-states. Therefore a significant amount of coordination and cooperation is needed to devise ways to effectively and efficiently deal with the problem of sex trafficking without infringing upon the sovereignty of states. As such, providing a concrete, agreed upon definition both nationally and internationally would be a starting point to achieve this.

**The migration paradigm:** Interpreting sex trafficking under the migration paradigm refers to the link between irregular (illegal) migration and trafficking. This perspective emphasizes on the movement aspect of trafficking to address the problem. By attempting to stop sex trafficking by addressing irregular migration would seem to be an effective avenue for receiving countries to utilize. Yet, solely addressing irregular migration is not entirely effective in eliminating sex trafficking, as this does not take account of situations whereby the victim legally enters a country and becomes forced or coerced into sexual exploitation later (Hugo 2005: 50-52). Furthermore, as Kara (2009) comments, although a focus on shutting down movement across borders is common:

“Such tactics have proved overwhelmingly futile because the modes of transport are numerous, the cost of transport is miniscule, and the sources of potential slave labor are nearly limitless. [As a result, this leads to]...little more than adjustments in routes, larger bribes to border guards, and the procurement of false travel documents” (Kara 2009: 39).

Anti-sex trafficking measures therefore need to consider two other components to trafficking (the purpose and means), and formulate policy accordingly. The migration paradigm is useful, but incomplete in addressing sex trafficking in an era of rapid globalization.

**The human rights paradigm:** The human rights theoretical framework is explained by Segrave, Milivojevic and Pickering (2009) as an approach usually taken by international human rights organizations and NGOs:

“...the perception of trafficking as the violation of basic human rights ... can result in limiting the role of nation-states to the protection and ‘restoration’ (through the provision of victim services and repatriation) of women” (Segrave, Milivojevic and Pickering 2009: 5).

Under this framework, anti-trafficking efforts should focus on maintaining a ‘victim-centric’ approach; it implies that sex trafficking is a violation of an individual’s human rights, and human rights instruments should therefore be utilized by states to protect individuals and prevent trafficking (Segrave, Milivojevic, and Pickering 2009: 5-6). Under this framework, the right to migrate is assumed, but the sovereignty of the state limits it with stricter migration policies that allow for irregular migration and trafficking (Segrave, Milivojevic, and Pickering 2009: 6). However, since there is still much debate over the effect of stricter or looser migration policies on (contributing to or reducing) trafficking, the human rights paradigm maintains protection of the victim as the priority (Segrave, Milivojevic, and Pickering 2009: 6).

**The feminist paradigm:** Under the feminist paradigm, sex trafficking is viewed primarily in relation to sex work and the issue of consent in prostitution. Two dominant subdivisions exist. The first perspective is that of the neo-abolitionist that regards sex trafficking as a highly gendered process, and conceives prostitution as gender-based violence that dehumanizes and objectifies women (Segrave, Milivojevic, and Pickering

2009: 2-3). From this viewpoint, anti-sex trafficking efforts should therefore focus on eliminating the demand for commercial sex and maintaining illegality in all forms of sex work (Segrave, Milivojevic, and Pickering 2009: 3). Sex trafficking is therefore believed to exist in areas where prostitution is ‘tolerated’ (Segrave, Milivojevic, and Pickering 2009: 4).

The second subdivision is the regulationist; according to Segrave, Milivojevic and Pickering (2009), under this perspective, “Prostitution is seen as a form of labor based on women’s use of their bodies as a source of income. Sex work *per se* is not a violation of human rights: it is work, and sex workers do not have to be ‘rescued’ but enabled to exercise their labor rights” (Segrave, Milivojevic and Pickering 2009: 5).

Practices of sex trafficking thus arise from a regulationist perspective, as women are deprived of choice and control over their bodies, income and/or line of work (Segrave, Milivojevic, and Pickering 2009: 5). As such, the regulationist movement argues that sex work can and should be de-criminalized to avoid limiting workers’ rights and creating conditions for exploitation and trafficking of women.

**The economic paradigm:** Economic theory tends to view sex trafficking within the framework of supply and demand of commercial sex, and the calculations of the benefits and gains of criminals involved in the trade (Lutya and Laniety 2012: 562). Consequently, the economic paradigm for enacting anti-trafficking measures focuses on the elimination of the demand by criminalizing the consumers/customers of sexual services and instituting harsh penalties to those criminals that are associated with the operations and running of trafficking networks and establishments. Those who support this paradigm believe that the existence of sex trafficking is due to its perception as a ‘low-risk, high return’ activity (Kara 2009: 37). Therefore if intervention can address the demand aspect, widespread sex trafficking counter measures would not be needed, as the criminal groups would not perceive it such a profitable business worth being involved in. With continued economic globalization, however, demand has enlarged to a global scale thereby calling into question the validity and practicality of such an approach.

## Methodology

This study is based on a review of literature regarding sex trafficking and the different paradigms to fight this phenomenon, as well as a short review of the dimensions of the problem in two East Asian countries of China and Japan. I will present an integrated framework that combines the four theoretical paradigms that were mentioned in the introduction, and discuss how such a framework may be more suitable in the regional fight against sex trafficking. While singularly the four theoretical paradigms already outlined do provide partial solutions and key perspectives on anti-sex trafficking measures, no one paradigm alone is entirely sufficient in achieving adequate protection for victims, prosecution of perpetrators, and prevention of further sex trafficking. For example, states must maintain control over their own migration policies; however, the human and labor rights of women and victims must also be respected and upheld.

The construction of an integrated theoretical framework thus reflects an acknowledgement of the transnational dimension of sex trafficking and the internationally coordinated response it requires (Jojarth 2009: 8). Combining the core elements of the above paradigms together and linking them with the liberalist school of international relations theory can therefore lead to the construction of a new theoretical framework in anti-sex trafficking action. The main idea behind this integrated framework is that the problem of sex trafficking cannot be solved without international cooperation. This perspective is based on the liberalists’ idea that cooperation on global issues and global governance is not only possible but also highly desirable.

Formulating recommendations in efforts to combat sex trafficking therefore must involve international cooperation and take into account the migration, human rights, feminist and economic paradigms of the study of anti-sex trafficking practices. The remainder of this paper attempts to do just that after examining sex trafficking in two regional examples of China and Japan in East Asia and governmental efforts to address the problem domestically.

## Findings

**Sex trafficking in East Asia:** According to the US State Department's 2011 report on "Trafficking in Persons in East Asia and the Pacific", there are more incidences of forced labor and sex trafficking in East Asia and the Pacific than any other region worldwide (US State Department 2011). The majority of victims are likely to have been trafficked into some form of commercial sexual exploitation, and an estimated 80% of those are believed to be women and girls (US State Department 2013). These observations and findings highlight the immensity of the problem in the East Asia region.

As a region that comprises source, transit and destination countries, there is a pressing need for vigilance and coordination by a multitude of actors at the local, national, regional and international levels. This is of particular relevance today as the region continues to witness a rapid growth of market-driven intra-regional migration, economic growth and increased integration with the rest of the world (Lee 2005: 166). Progress has been made in regards to cooperation on human and sex trafficking in East Asia as Hugo (2005) states:

"There have been a number of initiatives involving cooperation between Asian nations to combat trafficking. In 2002 and 2003, Regional Ministerial Conferences on People Smuggling, Trafficking in Persons and Transnational Crime were held in Bali, Indonesia and represent a promising development in this area" (Hugo 2005: 51).

However, despite the existence of a common interest and goal to eradicate human and sex trafficking in the region and around the world, countries in the region still domestically maintain different interpretations and perceptions of their role and responsibilities in contributing to and formulating of solutions (US State Department 2011). This reality, considering the emergence and development of transnational crime syndicates that operate vast networks of sex trafficking routes across many countries, shows the inadequacies in attempting to formulate individual, domestic, national policies to combat a growing transnational, rapidly globalizing problem. As Kara (2009) observes in his analysis of the link between organized crime and government policy aimed at addressing sex trafficking:

"While organized crime groups have globalized the crime of sex trafficking, the legal and governmental efforts to thwart them remain mired in nationalistic inertia and bureaucratic inefficiency" (Kara 2009: 39).

This phrase can be better understood and illustrated through an investigation into the domestic conditions and national efforts by governments in the region to combat and address sex trafficking. Since China is a large developing country, regarded as a major source, transit and destination country for domestic and international sex trafficking, and Japan is a smaller, highly developed country with a large sex industry that has been noted as a major destination country for sex trafficking, these two countries provide an

excellent example to compare and contrast the different domestic circumstances and respective governmental efforts that countries in the region face/have enacted before formulating agreements and cooperating further on sex trafficking.

**The People's Republic of China:** China is afflicted with internal trafficking, international trafficking of its citizens abroad and the arrival of trafficking victims from countries in and around Asia including North Korea, Myanmar, Vietnam, and Mongolia among others (Lagon 2008: 40). The types of trafficking that prevail are not limited to commercial sexual exploitation as labor exploitation also makes up a significant amount of trafficking cases (Lagon 2008: 40). According to Lagon (2008), who comments on sex trafficking in and from China:

“The trade of women and girls for sexual exploitation is...[a]...clear trafficking challenge for the Chinese government. Although prostitution is illegal, the burgeoning illicit sex industry creates a vulnerability for sex trafficking. Women and children are trafficked into the country from North Korea, Vietnam, Burma, Mongolia, and Thailand. Chinese women are also trafficked abroad for sexual exploitation” (Lagon 2008: 40).

Sex trafficking continues due to an uneven male-to-female ratio in the population, uneven economic development across the country, and the continued involvement of criminal syndicates, most notably ‘snakeheads’ predominately in Fujian and Yunnan provinces that deploy highly technical global smuggling and trafficking networks around the world (Chu 2011: 45-49).

The Chinese government publicly acknowledges internal trafficking and the international trafficking of Chinese nationals overseas as a problem (Hendrix 2010: 191), and has enacted numerous laws to combat trafficking and specifically the trafficking of women and children (such laws include: the Law on the Protection of Rights and Interests of Women and Article 240 of the Criminal Code). In addition to these amendments, the government has established an Office for Preventing and Combating Crimes of Trafficking in Women and Children and has released a National Action Plan to Combat Trafficking (Hendrix 2010: 191).

These steps, along with the country's 2009 ratification of the Palermo Protocol, have been viewed positively by the international community as a sign of China's commitment to fight and stop human trafficking (US State Department 2011). However, serious problems still remain due to the government's unclear definition of trafficking, limited capacity to fully investigate and prosecute perpetrators and corrupt officials, and significant challenges in victim identification and protection services (Hendrix 2010: 192-193). Lagon (2008) also suggests that the government's main challenges include:

“... [the] punishment of victims, poor victim protection services, and lack of transparency in criminal law enforcement by not fully disclosing what the government is doing to enforce laws against trafficking of people” (Lagon 2008: 40).

The case of China and the progress that has occurred in regards to policy amendments and further commitments to fight sex trafficking highlight a definite increase in understanding of the problem of sex trafficking. However, due to the challenges in addressing such a problem in a country as large and diverse as China, progress is still slow. Cooperation and knowledge transfer from other countries and civil society would therefore benefit China in its fight against sex trafficking at both the domestic and international levels and enable increased, appropriate action to be devised. In other words, further cooperation and coordination



between the Chinese government and foreign governments must and should be stressed as an avenue to further fight sex trafficking in China and in the region.

**Japan:** Japan is regarded as a major destination (and sometimes source and transit) country for sex trafficking. In the US government's 2012 Trafficking in Persons (TIP) Report, the country was given a Tier 2 rating for its efforts to address sex trafficking (US State Department 2012). Under this rating, the report states that:

“The Government of Japan does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so” (Ruble 2012).

Part of the reason for this rating has been cited to be the lack of a public acknowledgement on the part of the Japanese government to recognize sex trafficking as a problem that exists in Japan despite statistics showing significant instances of sex trafficking occurring in the country (Lee 2005: 186-187). As Lee (2005) highlights, “trafficking cases are not aggressively pursued and penalties are weak. Though the government has funded international programs to increase awareness in other countries, little to nothing has been done to control the growing trafficking issue in Japan” (Lee 2005: 187). It has been estimated in the past that over 100,000 foreign women are trafficked into the sex industry in Japan per year with 90% of them being from other East Asian countries (Lee 2005: 174-176). In accounting for this, Hashimoto (2008) points out that “conditions in Japan are conducive to attracting traffickers: such as limited legal opportunities for migration, increasing demand for cheap labor in some service sectors and Japan's significant economic advantage” (Hashimoto 2008: 59).

Migration policies such as the ‘entertainer visa’ have been regarded in the past as almost open channels for sex trafficking, and with the government's history of reluctance to publicly acknowledge the problem and the challenge to fully tackle the involvement of the *Yakuza* (Japanese mafia) in these operations, anti-sex trafficking measures have been largely lacking in Japan according to many scholars and commentators (Ruble 2012). It was not until 2004 when an Inter-Ministerial Task Force was established and a National Action Plan was instituted that the Japanese parliament ratified the Palermo Protocol (Hashimoto 2008: 58).

In the time since the Japanese government ratified the Palermo Protocol, progress on anti-trafficking has occurred thanks in large part to the efforts of international organizations such as the International Migration Organization (IMO), various NGOs, and major source countries of trafficking victims in Japan such as Thailand and the Philippines. The Japanese government has been commended in its recent efforts to amend laws and regulations on human trafficking (including policies such as the ‘entertainer visa’) and take a more ‘victim-centric’ and human rights approach to trafficking cases (Hashimoto 2008: 58-60) yet, in a country with an immensely large sex industry that employs a significant number of foreign women (Lee 2005: 165), continued efforts to implement more comprehensive measures and frameworks that protect victims, prosecute perpetrators, and prevent sex trafficking need to be given priority as the methods and techniques used by traffickers becomes more sophisticated and difficult for authorities to detect. The significant growth in the number of empirical studies done by scholars on the experiences of non-Japanese Asian women whom were victims of sexual exploitation in Japan (for example, Jones, Engstrom, Hilliard and Sungakawan (2009), Human Trafficking between Thailand and Japan: Lessons in Recruitment, Transit and Control) show that knowledge of sex trafficking in Japan is growing and receiving more attention. If the Japanese government and civil society can leverage this knowledge in the fight against sex trafficking domestically and in the region then much can potentially be achieved in regards to the further development

of anti-sex trafficking measures. Not only would this benefit Japan significantly, but also these lessons from the Japanese experience should prove useful for other countries as well. In this sense, further cooperation and coordination would serve a pivotal role in disseminating information and moving from a domestic to regional level in the fight against sex trafficking in East Asia.

## Discussion and Conclusions

Based on the integrated theoretical framework outlined above, governments must cooperate in their fight against international sex trafficking with an approach that combines concepts from the four perspectives of migration, human rights, feminism and economics. As the case studies and regional focus highlights, East Asian countries have a common interest in eradicating the problem of human and sex trafficking, yet, uncertainties in their exact roles and responsibilities due to different interpretations of definitions, differing levels of impact from sex trafficking, and different domestic policies, priorities and considerations serve as obstacles for further cooperation and coordination efforts on sex trafficking. Jojarth (2009) illustrates this point in arguing that global trafficking:

“...requires an internationally coordinated response. However, the necessity of international cooperation on trafficking-related issues does not mean that such cooperation is easy to achieve – far from it. Illicit flows affect countries in different ways and in varying degrees of intensity, so that international cooperation cannot rely on a natural harmony of interest. Cooperation in law enforcement and national security matters is further impeded by the fact that the control of the police and judiciary, as well as of intelligence services and military forces, are generally seen as defining features of national independence and sovereignty” (Jojarth 2009: 8).

The sentiment that further international cooperation is critical has also been reflected by the US State Department:

“One of the keys to fighting trafficking in persons not just in Asia, but around the world, is increased international cooperation. As the traffickers globalize their operations and learn to cooperate with each other to increase their profits and stay ahead of their would-be prosecutors, governments must also work together and with civil society to fight trafficking” (US State Department 2011).

Consequently, the following points can be suggested to achieve further cooperation between East Asian nations under the integrated framework presented in this paper:

1. Engagement in regional negotiations leading to the formulation of clearer, agreed upon definitions of terms and concepts in the human and sex trafficking discourse.
2. Addressing irregular migration and formulating complementary migration policies between countries to close the holes in irregular forms of migration and reduce human trafficking while protecting the rights of migrants.
3. Addressing the economic, supply and demand aspects of sex trafficking, and exploring the possibility of legalizing sex industries and allowing channels for sex workers to migrate legally.



4. Decriminalizing victims and encouraging law enforcement to work with NGOs and civil society on identification, rescue and reintegration efforts.
5. Focusing on the lowest level of trafficking networks by providing incentives to individuals for giving information and intelligence to law enforcement with the further goal of providing those individuals with other means of earning a living.

These points aim to address the exploitative nature of sex trafficking while at the same time maintaining a multi-dimensional perspective on anti-trafficking measures. They highlight that sex trafficking must be addressed at the local, national and international levels, and cooperation and coordination amongst states and non-state actors is the best and only way to achieve success in anti-sex trafficking measures.

As outlined in this paper, sex trafficking is increasingly becoming a transnational problem that involves and affects numerous nations. Therefore, it requires transnational solutions that emphasize full cooperation, increased levels of coordination, and a universal agreement on the roles and responsibilities to protect, to prevent and to prosecute domestically and internationally. Since sex trafficking is a shared problem that goes across borders with no definitive territorial boundaries, governments can and should work together positively for the overall good of humanity.

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